

BEFORE TELANGANA STATE REAL ESTATE REGULATORY AUTHORITY
[Under the Real Estate (Regulation and Development) Act, 2016]

COMPLAINT NO.71 OF 2024

7th Day of December 2024

Quorum: **Dr. N. Satyanarayana, IAS (Retd.), Hon'ble Chairperson**
 Sri K. Srinivasa Rao, Hon'ble Member
 Sri Laxmi Narayana Jannu, Hon'ble Member

Sri Pyreddy Vishwanath Reddy

...Complainant

Versus

1. Sri N. Srinivasa Babu
2. Sri R. Srikanth Reddy

...Respondents

The present matter filed by the Complainant herein came up for hearing on 18.06.2024, 06.08.2024, 29.08.2024, 24.09.2024, and 01.10.2024 before this Authority in the presence of Complainant in person and Counsel for Respondent No.1, Sri Bramha Krishna Cherukuri and Sri R. Sanjay and none for Respondent No.2 despite service of notice and entering appearance through Smt. Bandiki Renuka, who was set *ex-parte* on 24.09.2024, and after hearing the arguments, this Authority passes the following **ORDER:**

2. The present Complaint has been filed by the Complainant under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as the "Act") read with Rule 34(1) of the Telangana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as the "Rules") seeking appropriate relief(s) against the Respondents.

Brief facts of the case:

3. The Complainant submitted that he booked Villa No.62 of 200 sq yds consisting of ground, first and second floor with the Respondents. That the Villa is situated at Kishtareddypeta Village, Ameenpur Mandal Sangareddy District, Telangana. He further submitted that he paid a total amount of Rs.46,10,000/- (Rupees Forty-Six Lakhs Ten Thousand Only) on the booking date. The Respondent

also executed a Memorandum of Understanding dated 18.06.2022 in respect of the sale of this Villa.

4. The Complainant submitted that despite paying the amounts, the Project did not start after 2 years of payment. He also mentioned that the Project was not registered with this Authority in accordance with Sections 3 & 4 of the Act, 2016. Therefore, the Complainant requested for the whole money paid from the date of Memorandum of Understanding dated 18.06.2022 along with interest. That initially, the Respondents agreed to return the paid amount along with interest, however, despite several reminders, there is no response from the Respondents.

5. Accordingly, the Complainant prayed to direct Respondents to refund Rs.46,10,000/- (Rupees Forty-Six Lakhs Ten Thousand Only) along with interest to the Complainant.

Counter on behalf of the Respondent No.1:

6. Vide Counter affidavit dated 06.08.2024, the Respondent submitted that the Complainant is Vendee of the property mentioned in the above said complaint, the Respondents herein, total and paid Rs.46,10,000/- (Rupees Forty-Six Lakhs Ten Thousand Only) as alleged out of the total sale consideration of Rs.2,01,31,250/- (Rupees Two Crore One Lakh Thirty One Thousand Two Fifty Only).

7. It was submitted that the Complainant after due enquiry about the credibility and sincerity of the Respondent in real estate business, voluntarily invested the amounts in the project in respect of the project undertaking by the Respondent. That due to some disputes in between the landowners and the Respondents the said project could not materialize, hence the Respondents requested the Complainant to take back the invested amount of Rs.46,10,000/- (Rupees Forty-Six Lakhs Ten Thousand Only) and the Complainant knowing fully well about cancellation of project, agreed to take back the invested amount, but failed to furnish his bank account particulars, to enable the Respondent to return the said amount through online transactions. However, the Complainant surprisingly demanded huge interest on the invested amount, without any valid reasons. That at the time of investing amount, it was an understanding between the Complainant and Respondent No.1, that if the above project is completed successfully, the profit amounts (after deducting all the amounts which includes the invested amount) will be distributed in between the Respondents and Complainant, but unfortunately the said project could not

materialized, hence the Respondent No.1 requested the Complainant to furnish his bank particulars enable the refund of amounts invested by him.

8. It was further submitted by Respondent No.1 that the alleged MOU said to have been executed by Respondents is only formal documents, that too executed on the request of the Complainant herein, since there is no contract between the Complainant and Respondents as Vendor or Vendee nor these Respondents agreed to sell the villa as alleged by the Complaint. Furthermore, there is no signature of the Complainant on the said alleged MOU dated 18.06.2022, hence the said MOU is not valid in the eye of law and does not have any sanctity. Sub-sequent to filing of the present complaint, on demand of Complaint, the Respondents already returned the sum Rs.29,00,000/- (Rupees Twenty-Nine Lakhs Only) to the Complainant through online medium within total invested amount of Rs.46,10,000/- (Rupees Forty-Six Lakhs Ten Thousand Only), and the remaining amount of Rs. 17,10,000/- (Rupees Seventeen Lakhs and Ten Thousand Only) shall be returned to the Complainant by Respondent No.2.

9. It was also submitted that the company, namely M/s Sri Square Infra Pvt having Respondent Nos.1 and 2 as partners have orally got separated in March 2023, due to huge loss in the business but Respondent No.1 with fair intention are ready to settle the invested amount of the Complainant.

10. That in that MOU dated 18.06.2022, it is clearly mentioned about Refund Policy in the page number 5 which states that "if any cancellation happens due to company legal or technical issues, the company has to refund 100% of paid amount to the customer" and accordingly, the Respondent No.1 refunded the amount that was due to the Complainant on his behalf.

11. Accordingly, he prayed that as he returned the entire invested amount to the Complainant, and there is no transaction between the parties as alleged in the complaint, hence the complaint is liable to be dismissed.

Observation by the Authority:

12. This Authority has perused the material on record and also heard the contentions raised by the parties. Despite service of notice and entering appearance, the Respondent No.2 failed to appear. Therefore, this Authority set the Respondent No.2 as ex-parte vide Order dated 24.09.2024.

13. Now, there are two issues that remain to be resolved, one regarding refund of amounts for the Complainant along with interest and the other is the apparent and abject violation of Sections 3 and 4 by the Respondents regarding which, despite issuance of a show cause notice, no reply had been forthcoming from them.

14. With respect to issue one, on the date of final hearing, the Complainant and the Respondent No.1 were present. Both parties submitted that the Complainant received the entire amounts invested i.e., Rs.46,10,000/- (Rupees Forty-Six Lakhs Ten Thousand Only) however, the Respondent No.1 submitted that they (both respondents) are not in a position to provide any interest on the said amounts.

15. The provisions of the Act, 2016 read with Rules, 2017 are very clear when it comes to refund of amounts. Section 18 stipulates that if the promoter fails to complete or is unable to give possession of an apartment, plot or building in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein or due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason, he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest in accordance with the Rules. In the facts and circumstances of the present case, it is abundantly clear that on account of the Respondents' failure to start the project, the Complainant sought for refund of amounts along with interest in accordance with the provision stipulated above. Therefore, the Complainant is liable for a refund along with interest in accordance with law. Therefore, the Respondents ought to pay interest on the refunded amounts to the Complainant.

16. Coming to violation of Sections 3 and 4, without having to materialize anything in the project, the Respondents could not have offered for sale any villa and executed the Memorandum of Understanding dated 18.06.2022 in complete contravention of Section 3. The provision clearly stipulates that *"No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate*

Regulatory Authority established under this Act.” Therefore, the Respondents are jointly and severally liable for penalty under Section 59 of the Act, 2016.

17. As the project did not materialize, there was no requirement to have filed for an application for registration, therefore there is no violation of Section 4 of the Act, 2016.

18. In view of the discussion made above, this Authority vide its powers under Section 37 and 38, issues the following directions to the Respondents:

- i. As the Respondents failed to register the project and executed Memorandum of Understanding dated 18.06.2022 in complete contravention of Section 3, both the Respondents are jointly and severally liable for penalty of Rs.1,28,903/- (Rupees One Lakh Twenty-Eight Thousand Nine Hundred and Three Only) payable within 30 days in favor of TGRERA FUND through a Demand Draft or online payment to A/c No. 50100595798191, HDFC Bank, IFSC Code: HDFC0007036;
- ii. The Respondents are jointly and severally directed to refund the interest applicable on Rs.46,10,000/- (Rupees Forty-Six Lakhs Ten Thousand Only) at the rate of 11.05% per annum (SBI MCLR of 9.05% + 2%) from the date of the Memorandum of Understanding i.e., from 18.06.2022 till the date of actual refund in accordance with Rule 15 of the Rules, 2017 within 30 (thirty) days;
- iii. The Respondents shall, strictly, not to advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any units of the project being developed by them without first registering the project with this Authority; and
- iv. Failing to comply with above said directions by the Respondents shall attract penalty in accordance with Section 63 of the Act, 2016.

22. As a result, the complaint is disposed of. No order as to costs.

Sd/-
Sri K. Srinivasa Rao,
Hon'ble Member,
TG RERA

Sd/-
Sri Laxmi Narayana Jannu,
Hon'ble Member,
TG RERA

Sd/-
Dr. N. Satyanarayana, IAS (Retd.),
Hon'ble Chairperson,
TG RERA